



# INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA FAMILY AND SOCIAL SERVICES ADMINISTRATION

TITLE: RECOMMENDATIONS TO REDUCE FRAUD BY  
CONTRACTOR EMPLOYEES

CASE ID: 2015-06-0086

DATE: April 4, 2018

*The Inspector General's Chief Legal Counsel, Tiffany Mulligan, after several investigations by special agents with the Inspector General, reports as follows:*

The Indiana Office of Inspector General (OIG) investigates potential criminal activity and Code of Ethics violations within the executive branch of state government. Ind. Code § 4-2-7-3. The OIG is statutorily charged with recommending policies to deter, detect and eradicate fraud, waste, abuse, mismanagement, and misconduct in state government. Ind. Code § 4-2-7-3 (2). It also is charged with providing advice to an agency on developing, implementing and enforcing policies and procedures to reduce the risk of fraudulent or wrongful acts within the agency. Ind. Code § 4-2-7-3 (8).

This report provides recommendations to address findings from several investigations that the OIG conducted involving welfare fraud and theft by employees of contractors with the Indiana Family and Social Services Administration (FSSA). In some cases, FSSA employees were involved in the welfare fraud and theft. More specifically, this report outlines several OIG

investigations that highlight the potential for wrongdoing by FSSA employees and contractor employees in the administration of certain programs.

FSSA has been active in reducing potential fraud and theft in a variety of ways. For example, FSSA investigators reported several of these cases to the OIG, and in cases where FSSA found their employees were involved in wrongdoing, FSSA terminated the employees. FSSA also has cooperated with all OIG investigations into these matters. The OIG recognizes that the leadership at FSSA has gone through several transitions since the OIG conducted the investigations described in this report, as well as with other relevant investigations. The goal of this report is to make recommendations to current leadership based on the OIG's findings in order to help FSSA continue their efforts to reduce incidents of welfare fraud, theft and wrongdoing, specifically by employees of FSSA contractors.

### **Summary of OIG Investigations**

FSSA's Division of Family Resources (DFR) is responsible for establishing eligibility for Medicaid, Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families Benefits (TANF). DFR has contracted with a Vendor<sup>1</sup> (Vendor) to help administer SNAP eligibility determinations, as well as to perform other duties. The Vendor employs eligibility specialists to assist applicants with applying for SNAP benefits and ensuring that applicants submit all required documentation.

The OIG has received and investigated several complaints involving allegations of criminal activity, including fraud and theft, by the Vendor's eligibility specialists. Below is a

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<sup>1</sup> FSSA originally contracted with ACS Human Services, LLC (ACS), a Xerox company, in 2009 to provide information intake, data collection, and other services to assist in the State's Eligibility Modernization project for making eligibility determinations for public assistance programs under FSSA's Division of Family Resources. FSSA amended the contract on several occasions to extend the services. On March 30, 2017, ACS changed its name to Conduent Human Services, LLC. FSSA amended its contract with ACS to reflect the name change.

description of three of these cases, two of which resulted in criminal charges and one for which the OIG found insufficient cause to present the case to the prosecutor's office. These three cases are a sample of the complaints and investigations that led to the recommendations in this report.

### Case 1

In 2016, FSSA's Investigations Division reported several suspects to the OIG who FSSA suspected of welfare fraud. These suspects included a State Eligibility Consultant (SEC), who was an employee of FSSA's DFR, and an Eligibility Specialist (ES), who was an employee of the Vendor through the Vendor's contract with FSSA. FSSA's internal investigation found that the SEC had approved repeated auxiliary SNAP benefits to the same individuals on several occasions, which raised questions regarding the legitimacy of those benefits.

One type of auxiliary SNAP benefits replaces food lost from a power outage. An individual must file an "Affidavit for Replacement of Food Stamp Benefits" to receive auxiliary benefits because of a power outage. The affidavit must be accompanied by corroborating evidence that the recipient's electrical power was off for at least four hours for a reason other than nonpayment. In the normal process, an FSSA contract employee would process a request for auxiliary benefits, but a state employee would approve or deny the benefit.

The OIG investigated this matter and reviewed the auxiliary benefits that FSSA's investigators identified as questionable. As part of the investigation, the OIG reviewed the affidavits and supporting documentation saved for these recipients in FSSA's system and found that supporting documentation was missing in some cases. The OIG also subpoenaed records from the power company and found several incidents where auxiliary benefits were paid based on an affidavit that cited a power outage for a certain address and date but where the power company did not have a record of a power outage. Based on schemes uncovered during other investigations,

the OIG suspected that the SEC or the ES or both were processing fraudulent auxiliary benefits for recipients in exchange for a share of the benefits from the recipients.

The OIG also interviewed several witnesses, including the SEC, the ES, and the SEC's supervisor. The SEC denied sharing extra benefits with recipients. The SEC and the SEC's supervisor differed on which employee was responsible for checking with the power company to confirm power outages; the SEC said this was not part of her job duties, but the SEC's supervisor said this was the responsibility of the SEC. The ES said that she was assigned to the SEC, and she would confirm power outages with the power company. The ES also stated that she did not fill out the questionable affidavits, and she never received food or cash for processing affidavits.

The OIG obtained limited arrest warrants from the Lake County Prosecutor's Office for the purpose of getting hand writing exemplars for the SEC and ES. The ES was cooperative with the handwriting exemplar process and provided all samples requested; however, the SEC hid from the OIG when the OIG attempted to issue the arrest warrant. After following proper procedure, the OIG found the SEC hiding in a closet with a bag packed on the bed. After the OIG read her the warrant, she complied with the OIG's instructions. The SEC had difficulty completing the handwriting exemplar due to a tremor in her hand and wrist so the OIG ended the testing and determined the sample was not usable.

After reviewing all evidence, the OIG found insufficient evidence to seek criminal charges against either the SEC or ES, even though FSSA's internal investigation found evidence of improper payment of auxiliary benefits. Due to lack of evidence, the OIG did not seek criminal charges from the Lake County Prosecutor's Office, and the OIG closed this case for insufficient cause. The OIG learned that FSSA terminated the SEC for violating FSSA policy. The Vendor

did not dismiss the ES from employment; instead FSSA hired her as a state employee after FSSA's internal investigation.

### Case 2 (Vaughner)

As reported in Inspector General Report 2013-12-0240<sup>2</sup>, the OIG investigated another ES employed by the same FSSA Vendor for committing acts of fraud and theft. This case also dealt with the auxiliary benefit program that reimburses SNAP recipients' losses incurred due to power outages. In this case, the ES worked with a third party to arrange auxiliary benefits for SNAP recipients in exchange for payment, either in cash or by allowing the third party to use the recipient's benefits to make purchases.

During the investigation, the OIG found that the ES had two prior felony convictions in Wisconsin under her maiden name; one conviction for forgery in 1997 and one conviction for failure to report income in 1991. The Wisconsin Department of Children and Families placed a lien against her in a Wisconsin civil suit for over \$11,000.

The investigation found that certain documents in the claim files that the ES processed were either missing or fraudulent. Specifically, the claim files included forged Affidavits of Replacement of Food Stamp Benefits and did not include proof of loss. The recipients received the benefits; however, they advised the OIG that they were not involved in providing the missing or fraudulent documentation to FSSA. The recipients claimed that they had not gone to the DFR office, signed the affidavit or provided any supporting documentation.

Also, the investigation found that the ES referred all of the processed claims to one specific SEC employed by FSSA. When interviewed by the OIG, a FSSA manager indicated that it is standard practice for FSSA to pair FSSA SECs with a specific ES. The FSSA SEC who

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<sup>2</sup> This report can be found online at: [http://in.gov/ig/files/2013.12.0240\\_Welfare\\_Fraud\\_WEB.pdf](http://in.gov/ig/files/2013.12.0240_Welfare_Fraud_WEB.pdf).

reviewed the processed claims for the ES indicated that he always reviewed the original documents or copies of the documents online. He indicated that he was not responsible for scanning the documents into the file, and the original documents would be shredded after review. The investigation found several cases where both the ES and the FSSA SEC reportedly reviewed the cases yet documentation was missing from the FSSA system and the affidavits were incomplete.

The investigation resulted in multiple felony charges for welfare fraud, corrupt business influence, and forgery against the ES. The investigation found that the ES had processed approximately ninety-seven (97) fraudulent claims for auxiliary benefits with a total loss that exceeded \$53,000. The court ordered the ES to pay \$24,508 to the State in restitution, but the ES has paid very little of this back to the State to date.

#### Case 3 (Falconer, Anderson, Malone and Flowers)

As reported in Inspector General Reports 2013-10-0207A, B, C, and D<sup>3</sup>, the OIG investigated several suspects for defrauding the SNAP and Child Care Development Fund (CCDF) programs in order to receive benefits that they were not eligible to receive. The original investigation involved a Vendor employee who was both a SNAP recipient and an ES who worked under FSSA's contract with the Vendor. *See Inspector General Report 2013-10-0207A.* The ES under-reported her income by forging FSSA forms and by creating forged paystubs. She also over-reported her expenses by creating forged rental lease agreements using fictitious landlords and reporting childcare expenses by using a forged letter reportedly from the childcare providers. The investigation also found that she assisted friends in defrauding the programs to receive benefits they were not entitled to receive. The OIG investigated the friends of the ES as

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<sup>3</sup> These four reports can be found online at: <http://in.gov/ig/2774.htm>.

well as another contract employee employed through a different vendor for similar fraudulent activity. *See Inspector General Reports 2013-10-0207B, C, and D.*

FSSA has a mechanism in place to verify a SNAP recipient's earned income. The agency receives a financial report from Work Number, which is a service of Equifax. The report identifies the applicant, the applicant's employer, and the amount of the applicant's wages. The investigation of the ES found two Work Number reports in her file, one from 2012 and one from 2013. The investigation also found that a different Eligibility Specialist, who reviewed the ES's application for benefits, had noted in the FSSA system that there was a discrepancy between the earned income in the FSSA case file and the information received from Work Number. The Eligibility Specialist who reviewed the ES's application chose to use the information in the case file because she could not explain the discrepancy. The investigation did not find evidence that the Eligibility Specialist who reviewed the ES's application intentionally assisted the ES with her fraudulent activity; however, the Eligibility Specialist did not identify or prevent the fraudulent activity.

These investigations resulted in felony charges against the suspects for welfare fraud, forgery, theft, corrupt business influence, and perjury. The court ordered the ES to pay \$79,489 to the State in restitution. The court ordered the three accomplices of the ES to pay a total of \$22,383 to the State in restitution. Most of this restitution remains unpaid.

### **Recommendations**

Based upon these and other investigations, the OIG makes the following recommendations to FSSA to reduce the incidents of fraud and theft by employees of FSSA contractors:

### Recommendation 1.

The OIG recommends that FSSA ensure that all vendor contracts involving staffing for FSSA's benefits eligibility operations include language that requires vendors to perform criminal background checks on potential employees. The criminal background checks should search for any criminal history throughout the United States. The OIG also recommends that FSSA require vendors to notify FSSA if they find a potential employee has a criminal history. FSSA can then make a determination on whether a potential Vendor employee's past criminal history makes them unqualified for employment through the FSSA contract.

The OIG recognizes that FSSA has included language regarding background check standards and background check documentation in their Request for Proposal's Scope of Work for certain eligibility operations contracts. This language requires the contractor to conduct criminal history background checks, at the contractor's expense, for all contractor and subcontractor personnel assigned to work on the contract. The language also reads that "Any applicant that . . . has been found to have had convictions that are deemed to be related to the position applied for, will be removed from the assignment at the request of DFR as well as from consideration from the position applied for." The language allows DFR to consider any conviction, but specifically mentions forgery, fraud, check deception, or theft as crimes that DFR can consider before approving the employee for work within FSSA.

### Recommendation 2.

The OIG recommends that FSSA consider assigning Eligibility Specialists to review cases on a rotating or random basis. The Eligibility Specialist should not be able to choose which State Eligibility Consultant is going to review their cases; thereby picking a State Eligibility Consultant that he or she believes will intentionally or negligently approve eligibility

without a thorough or accurate review. This may reduce the risk that the Eligibility Specialist could depend on a particular State Eligibility Consultant to approve their requests and defraud the welfare system.

### Recommendation 3.

The OIG recommends that FSSA enforce its policy for auxiliary benefits that requires the local FSSA office to provide proof of the emergency or disaster that caused food to be destroyed through a collateral contact, documentation from a community organization, such as the Fire Department or Red Cross, or a home visit<sup>4</sup>. The OIG also recommends that FSSA hold the SEC reviewing the documents responsible for ensuring the documents are scanned into FSSA's eligibility system. This could involve requiring the SECs to actually scan the documents themselves or to check to ensure that someone else scanned the documents into the system. This would help ensure that the SEC is reviewing the documents and that FSSA has a record of the documents the SEC reviewed.

### Recommendation 4.

The OIG recommends FSSA encourage state and contract employees, especially in the area of eligibility operations, to report suspicious activity. This might include increasing communication to state and contract employees to explain when they should report suspicious activity, such as when they notice the same recipient receiving multiple auxiliary benefits or when supporting documentation is missing. It might also include providing state and contract employees with contact information for relevant reporting offices, such as FSSA's Investigations Division, the OIG, and federal oversight agencies. FSSA also should document which contractor employees and which state employees are involved in cases with suspicious activity.

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<sup>4</sup> This requirement is found in Section 3610.15.35 of FSSA's ICES Program Policy Manual.

In some of the cases the OIG investigated, the OIG found that FSSA employees or contract employees made comments questioning prior entries into FSSA's eligibility system; however, there is no record that FSSA followed up on these comments. The OIG recommends that FSSA put a process in place for reviewing and following up on reports of suspicious activity and questionable comments made in FSSA's system.

#### Recommendation 5.

The OIG recommends that FSSA include contract provisions that hold the contractor liable for losses due to employee fraud in future contracts involving staffing for FSSA's benefits eligibility operations. This language should require the contractor to make the State whole for any loss due to fraud perpetrated by an employee of the contractor. FSSA should negotiate with the Vendor when these provisions would be triggered. For example, the provisions could be triggered upon a finding of loss by FSSA. At a minimum, they should be triggered when the employee is convicted of a crime related to their job.

Once such provisions are in place, FSSA should pursue these provisions to hold the contractor liable for any loss to the State caused by fraud or abuse by the contractor or its representatives. If FSSA receives recovery from the contractor for loss due to fraud or abuse by a contract employee prior to the employee's conviction, the OIG could still work with the local prosecutor's office to seek restitution from the employee on behalf of the contractor. The OIG has seen success with this approach in the past<sup>5</sup> as it allows an agency to recover from the contractor upon evidence of wrongdoing instead of waiting for a convicted criminal to pay court-

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<sup>5</sup> For example, in 2016 and 2017, the Lake County Prosecutor's Office charged several service providers, who worked for contractors of the Indiana Department of Child Services (DCS), with theft. DCS recovered from the contractors prior to charges being filed under the audit provisions of DCS's contract. The OIG then worked with the Prosecutor's Office to have restitution paid back to the contractors from whom the State had already recovered. The IG Reports for the 2017 cases can be found at: <http://in.gov/ig/2850.htm>.

ordered restitution, which is often not fully paid. If FSSA receives recovery from the contractor after an employee's conviction or after the court orders restitution to the State, the contractor can recover these funds back from FSSA.

Recommendation 6.

The OIG recommends that FSSA provide thorough and regular trainings to state employees and contract employees on how to perform job functions. Such training should emphasize the need to provide careful reviews in all cases to ensure that any required documentation is complete and income is verified.

Dated: April 4, 2018

APPROVED BY:

A handwritten signature in black ink that reads "Lori Torres". The signature is written in a cursive, flowing style.

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Lori Torres, Inspector General